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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3208 OF 2007

The State of Maharashtra ...Applicant
V/s.
Rahim Shaikh Rajjak ...Respondent

Mr.Y.M. Nakhawa, APP, for the Applicant-State.

Mr.S.A. Ingawale, Advocate, for Respondent No.1.

CORAM : A.P. DESHPANDE, J.

DATED : 12TH DECEMBER, 2007.

P.C.:

1. An order passed by the Special Judge, Malegaon in Special Case No.27 of 1999 dated 31-10-2006 is challenged and leave is sought under Section 378 of the Cr.P.C.

2. The Special Judge has categorically found that the prosecution has failed to prove that the accused who was working as a police constable had demanded a sum of Rs.500/- from the complainant to drop the proceedings against the complainant and his family members and had ultimately agreed to accept Rs.200/- as gratification.

3. The Court has further found that the prosecution has also failed to establish that the

accused obtained Rs.200/- from the complainant as a pecuniary advantage by corrupt and illegal means by abusing his position as public servant.

4. Perused the judgment. The said findings are based on evidence on record. The defence of the accused, which was spelt out at the time of raid, has been accepted by the Special Judge. The accused has pleaded that as the complainant had not received salary for a period of three months and as cordial and friendly relations had developed between the accused and the complainant, the accused had advanced a hand loan of Rs.200/- to the complainant which was repaid by the complainant to the accused at the time of incidence when raid was conducted. The said defence having been stated at first possible opportunity, the Special Judge has accepted the same. A very possible view of the matter has been taken. Hence no interference at the hands of this Court is called for. In the result, application is rejected.

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